

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1477 Forensic Mental Health Services
SPONSOR(S): Policy & Budget Council, Ausley and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 542

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-------------------------|-----------------|-----------------|
| 1) <u>Committee on Healthy Families</u> | <u>8 Y, 0 N</u> | <u>Mitchell</u> | <u>Mitchell</u> |
| 2) <u>Healthcare Council</u> | <u>16 Y, 0 N, As CS</u> | <u>Mitchell</u> | <u>Gormley</u> |
| 3) <u>Policy & Budget Council</u> | <u>22 Y, 0 N, As CS</u> | <u>Leznoff</u> | <u>Hansen</u> |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

CS/CS/HB 1477 creates the Public Safety Mental Health and Substance Abuse Local Matching Grant Program. The bill:

- Provides matching grant awards to local communities to address the needs of persons with serious mental illness and substance abuse problems who are in or at risk of entering the criminal justice and juvenile justice systems.
- Establishes the Criminal Justice Mental Health Policy Council within the Substance Abuse and Mental Health Corporation to align policy initiative and creates the Public Safety, Mental Health, and Substance Abuse Technical Assistance Center to help local communities plan and implement their local efforts.
- Provides grants to communities to bring together key stakeholders to implement programs to serve the mental health population involved in the criminal justice system, and to help reduce the use of state forensic treatment facilities and prisons.
- Requires equal local matching funds except for fiscally constrained counties, which are required to meet half of the required 100 percent local match.

The bill adds the Secretary of Elder Affairs, or designee, to be an ex officio member of the Substance Abuse and Mental Health Corporation, and removes requirements that licensing boards determine by rule whether specially trained mental health professionals who treat sex offenders in the Conditional Release and Parole and Community Control program are "qualified."

The effective date of the bill is July 1, 2007, subject to specific appropriation. The House version of the General Appropriations Act appropriates \$4,000,000 from the General Revenue Fund to provide grants through the Public Safety, Mental Health, and Substance Abuse Matching Grant program and to establish the Public Safety, Mental Health, and Substance Abuse Technical Assistance Center.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill provides grants for local communities to plan and implement programs to better use local resources to serve people with serious mental illnesses and substance use disorders in Florida's criminal justice system, to reduce the number who must be held in state forensic mental health facilities and prisons.

B. EFFECT OF PROPOSED CHANGES:

CS/CS/HB 1477 addresses the high number of people with serious mental illnesses and substance use disorders in Florida's criminal justice and juvenile justice systems.

The bill creates the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program within the Department of Children and Family Services.

It requires the Substance Abuse and Mental Health Corporation to establish a statewide justice and mental health reinvestment grant review committee. The committee includes five members of the corporation and representatives of the Departments of Children and Family Services, Corrections, Juvenile Justice, Elder Affairs, and the State Courts Administrator.

The bill authorizes counties to apply for a one year planning grant, or a three year implementation or expansion grant. Both awards require counties to address systemic changes for identification and treatment of adults and juveniles with mental illnesses and substance abuse disorders, and strategies to divert adults from commitment to the department under s. 916.17, F.S.

The bill requires the local Public Safety Council or other local committee to serve as a planning group for the grants. The planning council is required to include mental health and substance abuse experts and consumers, and representatives of the juvenile justice system, in addition to regular public safety representatives. It requires the planning group to make recommendations to the county board of commissioners regarding local forensic mental health and substance abuse problems of adults and juveniles.

The bill requires the corporation in collaboration with others, to develop criteria for review of grant applications, and selection of county awards. It requires counties to include specific information regarding their local situation and the proposed use of the grant. It prohibits a county from using grant funds to supplant existing funding.

The bill creates the Criminal Justice, Mental Health, and Substance Abuse Technical Assistance Center at the Florida Mental Health Institute at the University of South Florida, to assist local communities in preparing grants and providing best practice programs to address local issues. It requires the center to submit an annual report to the Legislature and Governor.

The bill limits the administrative costs a county may charge to the grant funds.

The bill amends s. 394.655, F.S., to create the Criminal Justice, Mental Health, and Substance Abuse Policy Council in the Florida Substance Abuse and Mental Health Corporation to align policy initiatives in the criminal justice, juvenile justice, and mental health systems. The members of the council are the chair of the corporation and Secretaries of the Departments of Children and Family Services, Corrections, Juvenile Justice, and Elder Affairs, and the Secretary of the Agency for Health Care Administration and the State Courts Administrator.

The bill also amends s. 394.655, F.S., to add the Secretary of Elder Affairs, or designee, to be an ex officio member of the Substance Abuse and Mental Health Corporation

The bill amends ss. 947.005(9) and 948.001(6), F.S., relating to Conditional Release and Parole and Community Control programs, to remove requirements that licensing boards determine by rule whether licensed psychiatrists, psychologists, social workers, mental health counselors, or marriage and family therapists, have the course work, training, qualifications and experience to assess and treat sex offenders. Sections 947.1405(7)(a) and 948.30(1)(c), F.S., already require these mental health professionals to be specially trained to treat sex offenders.

The effective date of the bill is July 1, 2007, subject to a specific appropriation.

PRESENT SITUATION

Currently there is no required planning process that brings together all of the local stakeholders who should be addressing the needs of this population. Local governments, the judiciary, law enforcement, providers of mental health and substance abuse services, advocates, consumers and state agencies should all be working together to address the situation.

According to the Department of Children and Families, as of March 7, 2007, there are 218 persons designated incompetent to proceed to trial or not guilty by reason of insanity, awaiting placement in a state mental health forensic treatment facility. One hundred fifty individuals have been waiting longer than 15 days for admission due to lack of available capacity.

Currently, the Department of Children and Families and the Department of Corrections work to ensure former inmates with severe and persistent mental illnesses receive aftercare follow-up. The department, including its state mental health treatment facilities, works with community mental health providers to identify limited resources to serve forensic individuals in the community who remain under court jurisdiction on conditional release or administrative probation.

Many individuals with mental illnesses and co-occurring substance abuse disorders become involved with the criminal justice system because they lack access to appropriate therapeutic services and medications. Often, they become repeat offenders and eventually serve time in prison. In addition, many individuals with chronic mental illnesses are referred to state mental health treatment facilities due to a lack of local coordination of resources to address their needs. Many of these individuals can receive community-based services that are more appropriate and cost-effective in meeting their needs.

The U. S. Department of Health and Human Services, Substance Abuse, and Mental Health Services Administration, estimates approximately 800,000 persons with serious mental illness are admitted to U.S. jails annually and 72 percent of these individuals meet criteria for co-occurring substance abuse. The Bureau of Justice Statistics reports over 16 percent of adults incarcerated in U.S. jails and prisons have mental illnesses. According to the Florida Commission on Mental Health and Substance Abuse, at least 15,870 inmates in Florida's jails and prisons have mental illnesses. Approximately 16 percent of the adult correctional population has a mental illness (Department of Corrections, 2006).

The Department of Corrections 2005 data indicates approximately 64 percent (54,242) of the inmate prison population (84,895) are identified as being in need of substance abuse treatment. Of those, 17 percent have a co-occurring mental illness needing treatment.

In June 2006, the Department of Children and Families, Department of Juvenile Justice and Department of Corrections applied for a grant from the Bureau of Justice Assistance to implement local, community planning grants for addressing the needs of individuals with mental illnesses involved with the criminal justice system. Although a grant award was not received, community planning and implementation grants with major stakeholder involvement can build on these efforts to help address

the problems of persons with mental health and substance abuse problems in Florida's forensic system who are most in need of treatment.

Currently s. 947.005(9), F.S., specifies that to be a "qualified practitioner" as required by s. 947.1405(7)(a), F.S., to treat sex offenders in the Conditional Release program, licensed psychiatrists, psychologists, social workers, mental health counselors, or marriage and family therapists, must have course work, training, qualifications and experience as determined by their respective boards. Section 947.1405(7)(a)3. requires the qualified practitioners in the program to be specifically trained to treat sex offenders.

Section 948.30(1)(c), F.S., also requires qualified practitioners in the Probation and Community Control program to be specifically trained to treat sex offenders. As in s. 947.005(9) relating to the Conditional Release program, s. 948.001(6), F.S., requires that the boards determine the course work, training and experience.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of Florida Statutes to establish the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program within the Department of Children and Family Services.

Section 2. Creates an unnumbered section of Florida Statutes to establish requirements for counties to apply for a planning grant, or an implementation or expansion grant.

Section 3. Creates an unnumbered section of Florida Statutes to require the corporation and others to develop criteria for reviewing grants.

Section 4. Creates an unnumbered section of Florida Statutes to establish the Criminal Justice, Mental Health, and Substance Abuse Technical Assistance Center.

Section 5. Creates an unnumbered section of Florida Statutes to limit administrative costs a county may charge to the grant funds

Section 6. Amends s. 394.655(6), F.S., relating to the Substance Abuse and Mental Health Corporation, to include include the Secretary of Elder Affairs, or designee, as an ex officio member.

Section 7. Amends s. 394.655(11), F.S., relating to the Substance Abuse and Mental Health Corporation, to create the Criminal Justice, Mental Health, and Substance Abuse Policy Council of Department Secretaries in the Corporation.

Section 8. Amends s. 947.005, F.S., relating to the Parole Commission, to remove board determination of requirements for specially trained mental health professionals to be "qualified practitioners" to evaluate and treat sex offenders in the conditional release program.

Section 9. Amends s. 948.001, F.S., relating to Probation and Community Control, to remove board determination of requirements for specially trained mental health professionals to be "qualified practitioners" to evaluate and treat sex offenders in the conditional release program.

Section 10. Establishes the effective date of the bill as July 1, 2007, subject to a specific appropriation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The House version of the General Appropriations Act (GAA) appropriates \$4,000,000 from the General Revenue Fund to provide grants through the Public Safety, Mental Health and Substance Abuse Matching Grant program and to establish the Public Safety, Mental Health, and Substance Abuse Technical Assistance Center. The proviso in the House proposed GAA specifies that \$3,850,000 shall be used to provide grants and \$150,000 is for the technical assistance center.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill requires local governments to provide equal matching funds in order to receive a grant award.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Estimated expenditures for the Substance Abuse and Mental Health Corporation and the Public Safety, Mental Health, and Substance Abuse Technical Assistance Center are based on the following cost analysis provided by the department:

- First year non-recurring furniture and computer expenses of \$4,328.
- Recurring PG 26 equivalent position with travel and expenses, for the Substance Abuse and Mental Health Corporation of \$90,251, in the first year and \$113,826 in the second year.
- Travel expenses to 12 meetings and meeting space for the Substance Abuse and Mental Health Corporation Review Committee of \$20,000 each year.
- The Florida Mental Health Institute Public Safety, Mental Health, and Substance Abuse Technical Assistance Center indicates it will require at least \$500,000 each year to perform the legislatively mandated functions. The Institute will hire a Center director and Staff expert in methods for collecting and analyzing data as required by the bill.
- Printing of annual report is estimated to cost \$5,000 each year.

The Florida Mental Health Institute indicates it has the technical ability to perform the functions detailed in this bill but it is difficult to predict the cost of performing the required functions. Staff will be required to analyze the utilization of services and to evaluate the performance of the counties.

The bill requires the Department of Children and Families to be the pass-through agent for the grant awards, providing transfer authority to the counties receiving grant awards. According to the department, if the funding level for 3-year implementation grants is increased significantly, the department may need additional contract management staff to cover the increased workload.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The proposed bill requires communities to use the local Public Safety Councils and does not allow for other bodies such as Miami-Dade County Mayor's Task Force that are currently addressing this issue. In discussions with counties, some wish to have flexibility to use existing task forces for this purpose.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 20, 2007, the Committee on Healthy Families adopted an amendment by the bill sponsor that is traveling with the bill, and voted the bill favorably.

The amendment provides that the bill takes effect only if a specific appropriation to fund its provisions is made in the General Appropriations Act. The House version of the General Appropriations Act contains an appropriation.

On April 10, 2007, the Healthcare Council adopted a strike-all amendment to the bill and voted the bill favorably as a Council Substitute. The bill analysis is drafted to the Council Substitute.

The strike-all amendment added juvenile justice issues to the grant program, expanded representation on local planning committees, restructured state agency oversight, and allowed for fiscally constrained communities to meet only 50 percent of the required local match. The amendment conforms the bill to language in SB 542.

On April 20, 2007, the Policy and Budget Council adopted two amendment to the bill and voted the bill favorably as a Council Substitute. The bill analysis is drafted to the Council Substitute.

The amendments added the Secretary of Elder Affairs, or the designee, to be an ex officio member of the Substance Abuse and Mental Health Corporation, and removed requirements that licensing boards determine by rule whether specially trained mental health professionals who treat sex offenders in the Conditional Release and Parole and Community Control program